

Final Decision to Grant a Variance for Airbag Waste

In response to the request submitted by the Kansas Division of Vehicles, Department of Revenue dated March 26, 2019, the Kansas Department of Health and Environment (KDHE) has decided to grant the following variance in accordance with KAR 28-31-13.

This variance applies to each person, as defined in KSA 65-3430, that generates airbag waste. All hazardous waste that is not hazardous airbag waste must be managed in accordance with all applicable hazardous waste regulations.

I. DEFINITIONS

Airbag waste means any hazardous waste airbag modules or hazardous waste airbag inflators.

Airbag waste collection facility means any facility that receives airbag waste from airbag handlers and accumulates the waste for more than ten days.

Airbag waste handler means any person, by site, who generates airbag waste.

CESQG means a conditionally exempt small quantity generator, as defined in KAR 28-31-260a.

KSQG means a Kansas small quantity generator, as defined in KAR 28-31-260a.

LQG means a large quantity generator, as defined in KAR 28-31-260a.

SQG means a small quantity generator, as defined in KAR 28-31-260.

All other terms have the meaning set forth in Kansas Statutes Annotated (KSA) 65-3430 *et seq.* and Kansas Administrative Regulations (KAR) 28-31-4 through 28-31-279a.

II. AIRBAG WASTE VARIANCE

Airbag waste that meets the conditions of Section III qualifies for the following variances.

(a) The airbag waste does not count towards:

- (1) The hazardous waste generation or accumulation amounts that are used to determine whether the generator is a CESQG, KSQG, SQG, or LQG; and
- (2) the hazardous waste generation amount used to determine the hazardous waste monitoring fee set in KAR 28-31-10.

(b) While at the airbag waste handler or during transport to an airbag waste collection facility or designated facility, the airbag waste is not subject to regulation under:

- (1) KAR 28-31-124 through 28-31-124e;
- (2) 40 CFR 261.5, as in effect on July 1, 2006 and as adopted by reference in KAR 28-31-261;
- (3) KAR 28-31-262 through 28-31-268; and
- (4) KAR 28-31-270.

III. CONDITIONS FOR AIRBAG WASTE VARIANCE

The conditions that must be met to qualify for the variances listed in Section II follow:

- (a) The airbag waste must be accumulated in a quantity of no more than 250 airbag modules or airbag inflators, for no longer than 180 days;
- (b) The airbag waste must be packaged in a container designed to address the risk posed by the airbag waste and labeled "Airbag Waste-Do Not Reuse";
- (c) The airbag waste must be sent directly to either:
 - (1) An airbag waste collection facility in the United States (U.S.) under the control of a vehicle manufacturer or their authorized representative, or under the control of an authorized party

administering a remedy program in response to a recall under the National Highway Traffic Safety Administration, or

- (2) A designated facility as defined in 40 CFR 260.10 as adopted by reference in KAR 28-29-260;
- (d) The transport of the airbag waste must comply with all applicable U.S. Department of Transportation (USDOT) regulations in 49 CFR part 171 through 180 during transit;
- (e) The airbag waste handler must maintain at the handler facility for no less than three (3) years records of all off-site shipments of airbag waste and all confirmations of receipt from the receiving facility.
 - (1) For each shipment, these records must, at a minimum, contain:
 - (A) The name of the transporter and date of the shipment;
 - (B) the name and address of receiving facility; and
 - (C) the type (*i.e.*, airbag modules or airbag inflators) and quantity of airbag waste in the shipment.
 - (2) Confirmations of receipt must include:
 - (A) The name and address of the receiving facility;
 - (B) the type (*i.e.*, airbag modules or airbag inflators) and quantity of the airbag waste received; and
 - (C) the date which the airbag waste was received.
 - (3) Shipping records and confirmations of receipt must be made available for inspection by the State of Kansas and may be satisfied by routine business records, including:
 - (A) Electronic or paper financial records;
 - (B) bills of lading;
 - (C) copies of USDOT shipping papers; or
 - (D) electronic confirmations of receipt.

IV. AIRBAG WASTE COLLECTION FACILITY OR DESIGNATED FACILITY

Once the airbag waste arrives at an airbag waste collection facility or designated facility, the airbag waste becomes subject to all applicable hazardous waste regulations, and the facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste regulations and must comply with the requirements of KAR 28-31-262, 28-31-262a, and all other applicable hazardous waste regulations.

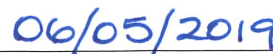
V. PROHIBITION ON REUSE

Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the National Highway Traffic Safety Administration is not considered recycling. The defective airbag modules or defective airbag inflators are considered a discarded waste and shall not be installed in any vehicle.

This variance shall go into effect on the date it is published in the Kansas Register. The variance will remain in effect until it is rescinded by the Secretary of the Kansas Department of Health and Environment or until adoption of state regulations renders the variance unnecessary.



Lee A. Norman, M.D., Secretary
Kansas Department of Health and Environment



Date